IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO.60 OF 2007

Sri Kanchi Mahaswami Peetarobana
Shatabdi Mahotsav Trust. .. .. Appellant

v/s.

Government of India, Ministry of
Home Affairs, New Delhi. .. .. Respondents

Ms.Nandini Menon for Appellant.

Mr.L.S.Shetty with Mr.A.H. Gokhale and Mr.S.D.Bhosle for Respondents.

CORAM : SMT.ROSHAN DALVI, JJ.

Dated : 13th April, 2007

P.C. :

Appeal admitted and heard forthwith.

1. The Appellant has challenged the order of the Government of India, Ministry of Home Affairs, dated 2.8.2006, refusing permission under Section 6(1A) of the Foreign Contribution (Regulation) Act, 1976 (for short, the said Act) accepting foreign contribution. The Appellant is a

Charitable Trust.

2. The Appellant applied for permission under the aforesaid provisions on 31.1.2006 by the Respondents. The permission was accompanied by the form duly filled in by it. Along with the annexures, the form, inter alia, enclosed a copy of the Appeal booklet in answer to the requirement of Clause 8 of the Application.

3. The Application was received by the Respondents on 17.2.2006. That aspect has been admitted by the Respondents' Counsel. Under Section 11 of the said Act, the Respondents are required to dispose of the Application within 90 days from the date of its receipt, failing which the permission prayed for in the Application is deemed to be granted. If the Respondents informed the Appellant of any special difficulties by reason of which the Application would not be disposed of within 90 days, they would be granted a further 30 days for such disposal. For that, the deeming provision would apply.

4. The Respondents have not shown any inquiry made of the Appellant showing any special difficulties, by reason of which the Application could not be disposed of. They were, therefore, required to dispose of the Application within 90 days under the provisions of Section 11(2) of the said Act. It is their contention that the Project Report was not filed. If that was a special difficulty, the same was not mentioned to the Appellant. Even taking that in view of the special difficulties, they required further 30 days for disposal of the Application, the Application would have to be disposed of within 120 days. That would be before 17.6.2006.

5. The Application instead was disposed of on the technical plea that the Field Report is still awaited on the167th day. That was on 2.8.2006.

6. After the impugned order was passed, a letter dated 2.11.2006 requiring submission of the Project Report as

mentioned in column 8(ii) of the Application Form was called for. The purpose cannot be served. The deeming provision applies.

7. Hence, the impugned order cannot be sustained. The impugned order is, therefore, set aside. The Appeal is allowed.

8. Appeal disposed of accordingly.

(SMT.ROSHAN DALVI, J.)